



February 1, 2002

SENATE BILL No. 394

DIGEST OF SB 394 (Updated January 30, 2002 4:37 PM - DI 87)

Citations Affected: IC 36-1.

Synopsis: Guaranteed energy savings contracts. Makes certain changes in the guaranteed energy savings contracts law used by school corporations and political subdivisions. Provides that actual savings may include stipulated savings that are documented by industry engineering standards, and that causally connected work is work that is required to properly implement an energy conservation measure. Provides that an energy conservation measure may include future labor, contracted services, and related capital expenditures. Requires a governing body to file a copy of an executed contract and other information with the department of commerce. Provides that stipulated savings may be used in determining actual savings for various energy conservation measures. Requires a contract that includes stipulated savings to specify the methodology used to calculate the savings using industry engineering standards. Provides conditions under which improvements that are not causally connected to an energy conservation measure may be included in an energy savings contract.

Effective: Upon passage; July 1, 2002.

**Meeks R, Skillman, Craycraft, Sipes,
Blade, Server**

January 10, 2002, read first time and referred to Committee on Finance. Reassigned to Committee on Governmental and Regulatory Affairs.
January 31, 2002, amended, reported favorably — Do Pass.

SB 394—LS 6964/DI 44+



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February 1, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 394

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-1-12.5-0.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter,**
4 **"actual savings" includes stipulated savings.**
5 SECTION 2. IC 36-1-12.5-0.7 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE UPON PASSAGE]: **Sec. 0.7. As used in this chapter,**
8 **"causally connected work" means work that is required to**
9 **properly implement an energy conservation measure.**
10 SECTION 3. IC 36-1-12.5-1 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
12 chapter, "energy conservation measure" means a school facility
13 alteration or an alteration of a structure (as defined in IC 36-1-10-2)
14 designed to reduce energy consumption costs or other operating costs,
15 including the following:
16 (1) Providing insulation of the school facility or structure and
17 systems within the school facility or structure.

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(2) Installing or providing for window and door systems, including:

- (A) storm windows and storm doors;
- (B) caulking or weatherstripping;
- (C) multi-glazed windows and doors;
- (D) heat absorbing or heat reflective glazed and coated windows and doors;
- (E) additional glazing;
- (F) the reduction in glass area; and
- (G) other modifications that reduce energy consumption.

(3) Installing automatic energy control systems.

(4) Modifying or replacing heating, ventilating, or air conditioning systems.

(5) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility or structure.

(6) Providing for other energy conservation measures that reduce energy consumption or reduce operating costs, **including future:**

- (A) labor costs;**
- (B) costs for contracted services; and**
- (C) related capital expenditures.**

SECTION 4. IC 36-1-12.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. As used in this chapter, "industry engineering standards" includes the following:**

- (1) Lifecycle costing.**
- (2) The R. S. Means estimating method developed by the R. S. Means Company.**
- (3) Historical data.**
- (4) Manufacturer's data.**
- (5) American Standard Heating Refrigeration Air Conditioning Engineers (ASHRAE) standards.**

SECTION 5. IC 36-1-12.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "related capital expenditures" includes capital costs that:**

- (1) the governing body reasonably believes will be incurred during the contract term;**
- (2) are part of or are causally connected to the energy conservation measures being implemented; and**



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(3) are documented by industry engineering standards.

SECTION 6. IC 36-1-12.5-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. As used in this chapter, "stipulated savings" are assumed savings that are documented by industry engineering standards.**

SECTION 7. IC 36-1-12.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. The governing body shall:**

(1) provide to the department of commerce not more than sixty (60) days after the date of execution of the guaranteed energy savings contract:

(A) a copy of the executed guaranteed energy savings contract;

(B) the energy consumption costs before the date of execution of the guaranteed energy savings contract; and

(C) the documentation using industry engineering standards for:

(i) stipulated savings; and

(ii) related capital expenditures; and

(2) annually report to the department of commerce, in accordance with procedures established by the department of commerce, the savings resulting in the previous year from the guaranteed energy savings contract or utility energy efficiency program.

SECTION 8. IC 36-1-12.5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) A contract that includes stipulated savings must specify the methodology used to calculate the savings using industry engineering standards.**

(b) Stipulated savings may be used for energy conservation measures including the following:

(1) Heating.

(2) Air conditioning.

(3) Ventilating.

(4) Lighting.

(5) Roofing.

(6) Windows.

(7) Water conservation.

(8) Fuel and power improvements.

(9) Any work that is causally connected to the energy conservation measures listed in subdivisions (1) through (8).

(c) The contract shall:



1 (1) describe stipulated savings for:

2 (A) energy conservation measures; and

3 (B) work causally connected to the energy conservation
4 measures; and

5 (2) document assumptions by industry engineering standards.

6 SECTION 9. IC 36-1-12.5-12 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) An improvement that
9 is not causally connected to an energy conservation measure may
10 be included in an energy savings contract if:

11 (1) the total value of the improvement does not exceed fifteen
12 percent (15%) of the total value of the contract; and

13 (2) either:

14 (A) the improvement is necessary to conform to a law, rule,
15 or ordinance; or

16 (B) an analysis within the contract demonstrates that:

17 (i) there is an economic advantage to the political
18 subdivision in implementing an improvement as part of
19 the contract; and

20 (ii) the savings justification for the improvement is
21 documented by industry engineering standards.

22 (b) The information required under subsection (a) must be
23 reported to the department of commerce.

24 SECTION 10. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senate Bill 394, currently assigned to the Committee on Finance, be reassigned to the Committee on Governmental and Regulatory Affairs.

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SENATE MOTION

Mr. President: I move that Senator Skillman be added as second author and Senators Craycraft, Sipes, Blade and Server be added as coauthors of Senate Bill 394.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 394, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Beginning on page 2, line 35, delete the effective date "[EFFECTIVE JULY 1, 2002]" in SECTIONS 5 through 8 and insert the effective date "[EFFECTIVE UPON PASSAGE]".

Page 3, delete lines 7 through 23, begin a new paragraph and insert: "SECTION 7. IC 36-1-12.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The governing body shall:

(1) provide to the department of commerce not more than sixty (60) days after the date of execution of the guaranteed energy savings contract:

(A) a copy of the executed guaranteed energy savings contract;

(B) the energy consumption costs before the date of execution of the guaranteed energy savings contract; and

(C) the documentation using industry engineering standards for:

(i) stipulated savings; and

(ii) related capital expenditures; and

(2) annually report to the department of commerce, in accordance with procedures established by the department of commerce, the savings resulting in the previous year from the guaranteed energy savings contract or utility energy efficiency program."

Page 4, delete lines 10 through 17, begin a new line block indented and insert:

"(1) the total value of the improvement does not exceed fifteen percent (15%) of the total value of the contract; and

(2) either:

(A) the improvement is necessary to conform to a law, rule, or ordinance; or

(B) an analysis within the contract demonstrates that:

(i) there is an economic advantage to the political subdivision in implementing an improvement as part of the contract; and

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(ii) the savings justification for the improvement is documented by industry engineering standards."

and when so amended that said bill do pass.

(Reference is to SB 394 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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